

SECTION 5. OPERATING PERMITS -- WHEN REQUIRED

- (A) Applicability and Scope. -- The following sources are required to obtain operating permits unless exempted under Paragraph (B) below:
- (1) Class I major source permits shall be required to operate any of the following:
 - (a) Any major source as defined in Section 2 of these Regulations and Standards;
 - (b) Any source, including an area source, subject to a standard, limitation, or other requirement under Section 18 of these Regulations and Standards.
 - (c) Any source, including an area source, subject to a standard or other requirement under Section 23, Section 27, or Section 28 of these Regulations and Standards;
 - (d) Any affected source;
 - (e) Any source in a source category designated by the Director or required to do so by any other applicable requirement under these Regulations and Standards or the Act.
 - (2) Unless a Class I permit is required, Class II minor source permits shall be required to operate any of the following:
 - (a) Any source or emissions unit having a potential to emit:
 - (1) Fifteen (15) tons/year or more of PM₁₀ emissions.
 - (2) Forty (40) tons/year or more of SO₂ or SO₃, or any combination of the two.
 - (3) Forty (40) tons/year more of Oxides of Nitrogen (calculated as NO₂).
 - (4) Forty (40) tons/year or more of volatile organic compounds (VOC).
 - (5) Fifty (50) tons/year or more of carbon monoxide.
 - (6) Six-tenths (0.6) tons/year or more of lead.
 - (7) Two and one-half (2.5) tons/year or more of any hazardous pollutant or an aggregate of ten (10) tons/year or more of any hazardous air pollutants.
 - (b) All incinerators used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units used only for disposal of residential waste generated on the residential premises where the incinerator is located.
- (B) Source Category Exemptions
- (1) In accordance with 40 CFR Part 70, Section 70.3(b)(1) and (2) as related to Section 70.3(a)(2) all sources listed in paragraph (A) above that are not major sources, or affected sources, are exempt from the obligation to obtain a Class I permit unless required to do so under another applicable requirement of these Regulations and Standards or under the Act.
 - (2) The following sources are exempt from applying for and having a Class I or II operating permit:
 - (a) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and
 - (b) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, paragraph 61.145, Standard for Demolition and Renovation.
 - (c) All sources and source categories subject only to regulations or requirements under Section 112(r) of the Act.
 - (d) All sources and source categories that would be required to obtain a permit solely because of the presence of an emergency generator. This exemption is unavailable to peaking units at electric utilities and any other generator which is used during time periods when power is available from the utility.

- (C) Emissions Units Covered.
- (1) Sources required to obtain an operating permit under these Regulations and Standards shall identify all relevant emission units in the permit application unless the emissions unit is specifically exempted pursuant to Section 7(F)(3) and (4). Emissions that have been exempted from reporting requirements because the emissions unit is an insignificant activity must still be included in the determination of whether a source must obtain a Class I or Class II operating permit.
 - (2) A source required to obtain an operating permit under these Regulations and Standards may comply through one of the following methods:
 - (a) The source may obtain a single permit for all relevant emission points located within a contiguous area under common control, whether or not falling under the same two-digit SIC code; or
 - (b) The source may request and obtain coverage for one or more emission points eligible for coverage under a general permit issued by the Department and obtain a separate permit for emission points not eligible for such coverage.
- (D) Fugitive Emissions. Fugitive emission from a source shall be included in the permit application and covered in the operating permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.
- (E) Except as provided in Section 12 paragraph B) of these Regulations and Standards, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under an approved operating permit program. If an operating source submits a timely and complete application for permit issuance, or for renewal, the source's failure to have a permit is not a violation of these Regulations and Standards or the Act until the Department takes final action on the permit application, provided that the failure to have a permit is through no fault of the source. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to Section 7, paragraph ©) of these Regulations and Standards, the applicant fails to submit any additional information necessary to process the application within the deadline specified in writing by the Department.
- (F) The submittal of a complete Class I or II operating permit application shall not affect the requirement that any source have a pre-construction permit as may be required by these Regulations and Standards.

Ref: Title 129, Chapter 5, Nebraska Department of Environmental Quality